

MINUTES OF THE
CURRENT USE BOARD

Rules Subcommittee Meeting

DRAFT

DATE: August 28, 2018 **TIME:** 1:00 p.m.

LOCATION: Department of Revenue Administration – Training Room, 109 Pleasant Street, Concord, NH

SUBCOMMITTEE MEMBERS:

Steve Hamilton, Mary Pinkham-Langer, Susan Bryant-Kimball, Andrea Lewy, Rob Johnson

MEMBERS of the PUBLIC:

No public in attendance.

Mr. Hamilton convened the meeting at 1:00 p.m.

Mr. Hamilton briefly summarized his presentation to the NH Farm Bureau Policy Development Committee describing it as a good exchange of ideas and information. The presentation included a summary of previous work the Board and Committee have done together, points on legislative policy development, ideas to help advance a position on different policies; and the work the Current Use Board is currently undertaking in a review of the administrative rules to help clarify some of the most common matters and controversies. The information will be provided to the county farm bureaus and state committees to be considered in the process of developing a policy for the coming year.

A brief discussion followed including the status of the rules and if they would be ready for rulemaking in December and whether or not the Agricultural Structures subcommittee will be meeting. There is more work to be done on the rules and it was felt once the definitions were completed, the review of the remaining rules should go quickly. Commissioner Jasper had been volunteered as Chair of the subcommittee however has not been able to organize a meeting due to other commitments. Since the rules committee has been discussing structures within the rules, it was felt the subcommittee's task was being worked on and they would not need to meet.

It was reiterated the most difficult task is the definitions and once those are complete, the review of the remaining rules should go quickly. Ms. Pinkham-Langer distributed a sample A-10 form for review as the process of how to complete it will need to be clearly described within the rules. It is intended that this new form will encompass all changes and provide a benefit for the municipal assessing officials and their process of keeping track of changes. She added the first page will be the most difficult to describe as it contains the most information; minor revisions will be needed to information within the other forms.

A discussion took place about what happens when acreage discrepancies between a town's tax map and a forest plan or survey occur; if it is a common problem and what the process is to resolve it. The proposed rules also address the issue in Cub 303.10 Acreage Discrepancies.

Ms. Pinkham-Langer – described the following revisions discussed at the 8/14/2018 Meeting:

Revised the Chapter Title to reflect the Chapter 79 as it pertains to open space and how it is assessed

- CHAPTER Cub 300 CRITERIA FOR *OPEN SPACE* CURRENT USE *ASSESSMENT*

Added the following definition:

Cub 301.01 “Accident, mistake, or misfortune” means something outside a person’s control, or something which a reasonably prudent person would not be expected to guard against or provide for.

- Removed “Agricultural betterments” definition;
- Added following “exceptions” to Cub 301.04 **02** “Betterment” means, the installation or construction of improvements which influence the value of land, such as:
 - (a) Roads, **with the exception of roadways and associated bridges that are used exclusively for:**
 - (1) **Forestry or watershed purposes in accordance with Cub 304.06 (c);**
 - (2) **Farming purposes in accordance with Cub 304.03 (b) and (c); or**
 - (3) **Recreational purposes pursuant to RSA 79-A:4 II;**
 - (b) Water lines, **with the exception of irrigation lines;**
 - Add **“as referenced in Cub 303.07”** to (b) above
 - (c) Sewage lines; **with the exception of farming tile drainage;**
 - Change the word “farming” to **farmland**
 - (d) Utility lines; **with the exception of a power source used exclusively for a tree sap collection system; or**

A discussion followed about the reference to “system” and it being potentially misleading. A suggestion was made to use the term “*equipment*” instead. It was decided to make the following changes in (d) above:

- Change the reference from “system” to **“*equipment*”**
- Add the reference, **“as referenced in Cub 303.08.”**

Clarification and an example were requested about the meaning of the following sentence relating to power lines, “*If the presence would render it ineligible under that category it shall be considered under qualification for another qualifying category.*” It was explained that whatever category the land would normally qualify, it would be the same if a utility line were added; the utility line does not change the nature of the category. The discussion moved toward assessment range versus the category and it was decided the statement needed clarification. The language would be reviewed and draft language would be provided at the next meeting.

Revised:

Cub 301.03 04 “Contiguous parcels” means more than one parcel of land, **having identical ownership**, which is connected, disregarding whether it is divided by a highway, railbed, river or water body or the boundary of a political subdivision.

Added:

Cub 301.08 “Equipment” means not permanently affixed equipment which is used exclusively for a farming or forestry purpose that, upon being situated or relocated, does not affect the utility of the underlying land, such as, but not limited to:

- (a) **Transportable animal shelter(s);**
- (b) **Chicken tractors;**
- (c) **Portable heat source; or**

(d) Tree sap collection systems.

- Strike “equipment which is” in definition
- Replace with “devices”
- (d) Tree sap collection systems
 - Replace “systems” with “devices”

Cub 303.08 Equipment. Land supporting tree sap collection ~~systems~~ “equipment”

- “systems” with “equipment”

Added:

Cub 303.07 Irrigation. Land supporting irrigated pasturage and farm land, farm watering and fire ponds, pastured livestock watering troughs, and the associated power source(s) which are used exclusively for sustaining livestock, for in ground crops, or for fire suppression, shall be eligible for current use assessment:

(a) Under the category in which the land would normally qualify; or

(b) If the presence and maintenance of such irrigation would render the land ineligible under that category, it shall be considered for qualification in another qualifying category.

A lengthy discussion took place and the following revisions were suggested:

- Strike “pasturage and”
- Strike “watering and fire”
- Strike “pastured livestock watering troughs, and the associated power source(s) which are”
- Strike “exclusively”
- Strike “or for fire suppression,”

Revised:

Cub 303.07 Irrigation. Land supporting irrigated farm land and farm ponds used for sustaining livestock or for in ground crops, shall be eligible for current use assessment:

(a) Under the category in which the land would normally qualify; or

(b) If the presence and maintenance of such irrigation would render the land ineligible under that category, it shall be considered for qualification in another qualifying category.

Added:

Cub 301.11 “Map” means a drawing or a survey of a parcel or tract of land, qualified for current use assessment pursuant to Cub 304, which shall contain at a minimum:

(a) Identification of the entire parcel or tract of land oriented to establish the location by including:

(1) The municipality tax map and lot number of the parcel of land;

(2) For a tract of land, the separate municipal tax map and lot number of each contiguous parcel;

and

(3) The identification of the road(s) from which the parcel or tract of land is accessed;

(b) Identification of the total acreage of the parcel or, for a tract of land the total acreage of each contiguous parcel;

(c) Identification of the NICU portion of the parcel or tract of land by including verifiable:

(1) Boundary dimensions;

(2) Existing identifiable landmarks;

(34) Location to enable the municipal assessing officials to distinguish the NICU land from the current use land;

(d) Identification of the land to be assessed as current use including:

(1) The location and the acreage of the land classified as farm, forest, unproductive, and wetlands;
and

(2) The location and acreage of the forest type categories described in Cub 304.07.

- Remove “forest,” in (d) (1), above.
- *(c) will be reviewed by the members to make clear how the map is going to describe the NICU property and how the boundaries and landmarks work together
- **Consider adding to (d) add a distinction (boundaries) to farmland for SPI (P12 304.05) if provided?

The following added definitions were reviewed and no changes were suggested:

Cub 301.12 “Municipal assessing officials” means those charged by law with the duty of assessing taxes and being the:

- (a) Governing body of a municipality;**
- (b) Board of assessors or selectmen of a municipality; or**
- (c) County commissioners of an unincorporated place.**

Cub 301.13 “Municipality” means a city, town, or unincorporated place. The term includes “Municipal”.

Cub 301.14 “NICU” means the not in current use land, as identified by the map, which has:

- (a) Not met the qualifying criteria for current use assessment; or**
- (b) Not been included by the landowner(s) as being enrolled in current use assessment.**

Cub 301.15 “Parcel” means a separate plot of land as identified by the municipality tax map and lot number.

Added:

Cub 301.16 “Seasonal high tunnel” means the use of a non-permanent covering, used exclusively for extending the growing season of agricultural crops grown in the farmland, which:

(a) Consists of fastened, non-welded, framing covered with membrane sheeting which may be disassembled, without damage, with little effort or difficulty;

- (b) Is not permanently affixed to the underlying farmland with concrete or similar non-portable footings;**
- (c) The removal of the seasonal high tunnel will not affect the utility of the underlying farmland;**
- (d) Does not contain tables or benches;**
- (e) Does not contain permanent electric service, heat, or ventilation; and**
- (f) Is not used to provide shelter or housing for any livestock, or to store supplies or equipment.**

- Strike “for any”
- Replace “to store supplies or equipment” with “storage”

A discussion ensued pertaining to the definition of “seasonal high tunnel,” and the interpretation that it was a structure that should not be allowed on current use land. It was important to the committee that this be defined, in detail, about what this was and its purpose. It is not meant to be permanent; its exclusive purpose and use is to

extend a season for growing products in the ground; and removal of the high tunnel will not affect the underlying utility of the land. It was clarified these must be used and maintained in order to qualify. Concern was expressed at the potential negative impact it could have on the open space concept and the impact on the assessing community to have to explain the allowance of such “structures.” It was reiterated RSA 79-A is to preserve and protect open space, but it is also about the protection against unregulated development; both of which are dedications for the public interest.

Next Meeting

September 6, 2018, at 9:00 a.m. at DRA.

Respectfully Submitted, Stephanie Derosier
NH Department of Revenue Administration – Municipal and Property Division

Documentation relative to the Current Use Board may be submitted, requested or reviewed by:

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Facsimile: (603) 230-5947
E-mail: cub@dra.nh.gov
Web: <http://revenue.nh.gov/current-use>

In person at 109 Pleasant Street, Concord
In writing to:
NH Department of Revenue Administration
Current Use Board
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